

General Information Letter: The residence of a trust is not affected by changes in residence or location of its trustees or beneficiaries.

July 26, 2007

Dear:

This is in response to your letter dated June 14, 2007 in which you request information regarding a change in situs of a trust. The nature of your letter and the information provided require that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be accessed from the Department's web site at [www.ILtax.com](http://www.ILtax.com).

Your letter states as follows:

I ask to know the laws, if any, that prevent the change of situs of my trust EIN XX-XXXXXXX from the state of Illinois to the state of Washington.

I ask this on the basis of Section 6 in my trust is titled "Changing the Trust Situs". It states, "After my death, the situs of this agreement may be changed by unanimous consent of all the beneficiaries then eligible to receive mandatory or discretionary distributions of net income under this agreement.

If such consent is obtained, the beneficiaries shall notify my Trustee in writing of such change of trust situs, and shall if necessary designate a successor corporate fiduciary in the new situs. This notice shall constitute removal of the current Trustee if appropriate, and any successor trustee shall assume its duties as provided under this agreement.

A change in situs under this Section shall be final and binding and shall not be subject to judicial review."

This trust was established by my late father, Mr. Z, as a revocable living trust to become an irrevocable trust for the benefit of my brother XXXXXX, sister XXXXXXXXXX and myself.

## **RULING**

Under the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/101 *et seq.*), an irrevocable trust is considered to be a resident of Illinois for income tax purposes where the grantor of the trust was domiciled in Illinois at the time the trust became irrevocable. 35 ILCS 5/1501(a)(20)(D). If the grantor of your trust was domiciled in Illinois at the time the trust became irrevocable, then the trust is treated as a resident for Illinois income tax purposes.

The situs of the trust does not control the classification of the trust as a resident or nonresident under the IITA. Therefore, assuming your trust to be an Illinois resident, the trust would remain a resident for income tax purposes notwithstanding a change in the situs of the trust.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you have questions regarding this GIL you may contact Legal Services at (217) 782-7055. If you have further questions related to

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Illinois income tax laws, visit our website at [www.revenue.state.il.us](http://www.revenue.state.il.us) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Brian L. Stocker  
Staff Attorney (Income Tax)